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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
LAREDO DIVISION**

UNITED STATES OF AMERICA,	§	
	§	
VS.	§	CASE NO. L-06-MJ-470
	§	
Beniegno DUARTE-TOLEDO	§	
	§	

**ORDER OF DETENTION PENDING TRIAL**

A detention hearing in accordance with Title 18, United States Code, Section 3142(f) was held in this case on March 21, 2006. Defendant is charged under Title 21, United States Code, Section 841(a)(1), with knowingly and unlawfully possessing with the intent to distribute approximately twenty-two point twenty-three (22.23) kilograms of cocaine. I find that the following facts are established by clear and convincing evidence and that they REQUIRE THE DETENTION of the Defendant, Beniegno Duarte-Toledo, pending trial in this case.

**FINDINGS OF FACT**

The government proffered the Pretrial Services Report stating that Defendant is a thirty-nine year old resident alien born in Guerrero, Mexico. Defendant stated to Pretrial Services that he has resided in Guerrero, Mexico with his wife and four children for the past eight months. However, at the detention hearing, Defense Counsel proffered that Defendant's son lives in North Carolina. Defendant has seven siblings; two of Defendant's siblings reside in Guerrero and the remaining five reside in Chapel Hill, North Carolina.

Defense counsel proffered that Defendant has been a resident in the United States since 1986

and that Defendant worked and resided in North Carolina. Defendant has no history of drug use and no prior criminal convictions.


#### REASONS FOR DETENTION

The evidence adduced at the hearing establishes probable cause to believe the Defendant has violated a statute which provides for a maximum sentence of life imprisonment under the Controlled Substances Act (21 U.S.C. § 801 et. seq.). Since probable cause exists to believe that the Defendant committed these crimes, a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the appearance of the Defendant as required and the safety of the community. The Defendant has failed to produce facts which will rebut this presumption in light of the findings above. Defendant is a danger to the community based on the amount of cocaine that Defendant was in possession of at the time of his arrest. Defendant is a flight risk on the basis that he has resided in Guerrero, Meixco for the past eight months, Defendant has significant family ties to Mexico, and if convicted of the instant offense Defendant may be facing a significant term of incarceration and removal proceedings.

#### DIRECTIONS REGARDING DETENTION

The Defendant is committed to the custody of the United States Marshal for the Southern District of Texas, Laredo, Texas for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the Defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DONE at Laredo, Texas, this 23rd day of March, 2006.



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Adriana Arce-Flores  
United States Magistrate Judge